

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FRACTUS, S.A.,

Plaintiff,

V.

AT&T MOBILITY LLC,

T-MOBILE US, INC., T-MOBILE USA,
INC.,

VERIZON COMMUNICATIONS INC.,
CELLCO PARTNERSHIP D/B/A VERIZON
WIRELESS,

Defendants.

[illegible]

CIVIL ACTION NO. 2:18-CV-00135-JRG
LEAD CASE

CIVIL ACTION NO. 2:18-CV-00137-JRG
MEMBER CASE

CIVIL ACTION NO. 2:18-CV-00138-JRG
MEMBER CASE

ORDER MEMORIALIZING
RULINGS FROM JUNE 18, 2019 HEARING


Before the Court is the Emergency Motion by Plaintiff Fractus S.A. for Leave to Produce AT&T Settlement Information to Defendants and Intervenor-Defendants and Supplement Fractus’s Damages Report Regarding Same (the “Emergency Motion”). (Dkt. No. 334). The Court set a hearing on the Emergency Motion for June 18, 2019 at 7:30 a.m. in Marshall, Texas. (*See* Dkt. No. 393.) The Court also ordered Plaintiff Fractus, S.A. (“Fractus”) and its Counsel to appear at the hearing and show cause “why they should not be sanctioned for violating Local Rule CV-7(l)” (the “Show Cause Order”). (*Id.* at 2.) This Order memorializes the Court’s rulings as announced into the record at that conclusion of the hearing. This Order does not limit the rulings as announced in anyway.

Both parts of Fractus's Emergency Motion are **DENIED**. As to Fractus's motion to supplement its damages expert report, the Court finds that good cause has not been demonstrated under the relevant four-factor test, particularly with respect to the second factor, "the importance of the testimony," and the third factor, "potential prejudice in allowing the testimony." *Reliance Ins. Co. v. La. Land & Expl. Co.*, 110 F.3d 253, 257 (5th Cir. 1997). Accordingly, this portion of the Emergency Motion is **DENIED**. Consequently, Fractus's motion to serve AT&T settlement information, upon which such a supplement would be based, is **DENIED-AS-MOOT**.

With respect to the Show Cause Order, the Court finds that Fractus has failed to comply with Local Rule CV-7(l) by improperly filing an emergency motion. Accordingly, the Court **ORDERED** that Fractus shall reimburse Defendants and Intervenor-Defendants for all costs and attorney's fees (including travel expenses) incurred responding to the Emergency Motion and attending the hearing therefor. Defendants and Intervenor-Defendants shall convey such costs, fees, and expenses to Fractus, who shall timely reimburse the same. The Court further **ORDERED** that Fractus shall not file another motion in this case that is not signed by an attorney from both Capshaw DeRieux LLP and Ward, Smith & Hill, PLLC.

So Ordered this

Jun 19, 2019



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE